

AMENDED IN ASSEMBLY AUGUST 28, 2003

AMENDED IN ASSEMBLY AUGUST 27, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1784**

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**Introduced by Assembly Member Wolk**  
**(Coauthors: Assembly Members Bates, Canciamilla, Chu, Correa,**  
**Daucher, Dutra, Frommer, Garcia, Shirley Horton, Nakano,**  
**Negrete McLeod, Richman, Salinas, and Wiggins)**

July 15, 2003

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An act to amend Section 87102 and to add Section 87102.7 to the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1784, as amended, Wolk. Political Reform Act of 1974: conflict of interest: Member of the Legislature: lobbying interests.

Existing law prohibits a Member of the Legislature from making, participating in making or in any way attempting to use his or her official position to influence specified governmental decisions in which he or she knows or has reason to know he or she has a financial interest. Existing law imposes administrative penalties on Members of the Legislature who violate this prohibition.

This bill would prohibit a Member of the Legislature from making, participating in making, or in any way attempting to use his or her official position to influence any decision on any matter in connection with which a lobbyist, lobbying firm, or lobbyist employer who has attempted to influence that Member in regard to that matter has, or

within the prior 12 months had, a business relationship with the Member. *The bill would require notification of the business relationship by the lobbyist, lobbying firm, or lobbyist employer prior to an attempt to influence the Member, and would make knowledge of that notice by the Member a prerequisite to finding a violation of the prohibition by the Member, as specified.* The bill would apply the prohibition only with regard to those business relationships entered into on or after July 1, 2003. The bill would define business relationship to include circumstances where the Member or the Member's controlled committee, or both, paid the lobbyist or lobbying firm to perform services in connection with the Member's campaign, or to provide legal or other professional services relating to the Member's status or activities as an elected official, as specified.

Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

The bill would impose a state-mandated local program by making a Member of the Legislature, *lobbyists, lobbying firms, and lobbyist employers* subject to administrative, civil, and criminal penalties for violating the provisions of this bill.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a  $\frac{2}{3}$  vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974, would therefore require a  $\frac{2}{3}$  vote.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 87102 of the Government Code is  
2 amended to read:

87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 (commencing with Section 87200) and 3 (commencing with Section 87300) and any Conflict of Interest Code adopted thereunder. Except as provided in Sections 87102.5 and 87102.7, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

SEC. 2. Section 87102.7 is added to the Government Code, to read:

87102.7. (a) (1) A Member of the Legislature may not make, participate in making, or in any way attempt to use his or her official position to influence any legislative action in connection with which a lobbyist, lobbying firm, or lobbyist employer who has attempted to influence that Member in regard to that matter has, or within the prior 12 months had, a business relationship with the member.

(2) *Prior to attempting to influence a Member of the Legislature with whom a lobbyist, lobbying firm, or lobbyist employer has a business relationship as defined in subdivision (b), the lobbyist, lobbying firm, or lobbyist employer shall provide written notification to that Member that the business relationship exists between that individual or entity and the Member. No Member of the Legislature shall be in violation of this section unless he or she has received and read, or received and been personally apprised of the contents of, the written notification. A lobbyist, lobbying firm, or lobbyist employer who fails to provide the written notification prior to attempting to influence a Member of the Legislature pursuant to this subdivision shall be subject to the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000).*

(b) For the purposes of this section, a business relationship between a member and a lobbyist, lobbying firm, or lobbyist employer exists in either of the following circumstances:

(1) A Member of the Legislature or ~~his or her controlled committees~~ *the Member's controlled committee*, or both, has contracted for or paid the lobbyist, lobbying firm, or lobbyist employer, or agent or employee of the lobbyist, lobbying firm, or lobbyist employer, to act as a campaign manager, campaign consultant, campaign fundraiser, or other campaign professional

1 providing services related to campaign or fundraising strategy for  
2 the member or his or her controlled committees, or both.

3 (2) Both of the following have occurred:

4 (A) A Member of the Legislature or ~~his or her controlled~~  
5 ~~committees~~ *the Member's controlled committee*, or both, has  
6 contracted for or paid the lobbyist, lobbying firm, or lobbyist  
7 employer, or agent or employee of the lobbyist, lobbying firm, or  
8 lobbyist employer, to provide legal or other professional services  
9 relating to the member's status or activities as an elected official.  
10 For the purposes of this ~~subparagraph~~ *paragraph*, services  
11 include, but are not limited to, advice and assistance regarding the  
12 member's filing obligations, conflicts of interest, ethics, and the  
13 other requirements and prohibitions set forth in this title.

14 (B) During any quarter of the calendar year, the services  
15 provided during that quarter have a cumulative fair market value  
16 that equals or exceeds one thousand dollars (\$1,000). There shall  
17 be a new one thousand dollar (\$1,000) limit for each quarter of the  
18 calendar year.

19 (c) For the purposes of this section, a controlled committee  
20 does not include a controlled committee formed for the purpose of  
21 supporting or opposing a ballot measure.

22 (d) This section applies only to business relationships entered  
23 into on or after July 1, 2003.

24 (e) Upon identification of a conflict of interest or potential  
25 conflict of interest pursuant to this section, a Member of the  
26 Legislature shall recuse himself or herself from voting on the  
27 matter, or otherwise acting in violation of this section. The  
28 member shall, within 14 days of the first recusal, send a letter  
29 disclosing the nature of the business relationship giving rise to the  
30 potential conflict to the Chief Clerk of the Assembly or the  
31 Secretary of the Senate, as appropriate, to be printed in the journal  
32 of the appropriate house.

33 (f) The remedies provided in Chapters 3 (commencing with  
34 Section 83100) and 11 (commencing with Section 91000) are  
35 applicable to Members of the Legislature for violations or  
36 threatened violations of this section.

37 SEC. 3. It is the intent of the Legislature that if this act is found  
38 invalid, any attorney's fees or costs incurred be paid from the  
39 General Fund and that the budget of the Fair Political Practices  
40 Commission not be reduced accordingly.

1 SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the penalty  
6 for a crime or infraction, within the meaning of Section 17556 of  
7 the Government Code, or changes the definition of a crime within  
8 the meaning of Section 6 of Article XIII B of the California  
9 Constitution.

10 SEC. 5. The Legislature finds and declares that the provisions  
11 of this act further the purposes of the Political Reform Act of 1974  
12 within the meaning of subdivision (a) of Section 81012 of the  
13 Government Code.

14 SEC. 6. This act is an urgency statute necessary for the  
15 immediate preservation of the public peace, health, or safety  
16 within the meaning of Article IV of the Constitution and shall go  
17 into immediate effect. The facts constituting the necessity are:

18 In order to prevent undue influence by lobbyists, lobbying  
19 firms, and lobbyist employers on Members of the Legislature, it  
20 is necessary that this bill go into immediate effect.

